

VICTOR HERNANDEZ K-31659  
Pleasant Valley State Prison  
P.O. Box 8504 Fac D-3-128-L  
Coalinga Ca 93210

FILED

2008 JUL 10 P 3 29

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION  
RICHARD W. KING  
CLERK  
U.S. DISTRICT COURT  
NO. DIST. OF CAL. S.J.

VICTOR ROGER HERNANDEZ

PETITIONER

V.

JAMES YATES, WARDEN

RESPONDENT

C 08-1154 JF (PR)

PETITIONER'S MOTION FOR  
EXTENTION OF TIME FOR  
FILING RESPONSE TO THE  
MOTION TO DISMISS FILED  
BY RESPONDENT.

On or about June 20, 2008, the respondent filed a motion to Dismiss the petitioner's Habeas Corpus petition as untimely. The petitioner previous to the respondents motion had motioned the court to appoint counsel due to the fact that petitioner was unable to read beyond a grade level of the 7th grade and could not read or understand the nature of the proceedings.

The petitioner is of the belief that he meets a exceptionation due to evidence that he will present that his grade point level 5.0 or less during the period of his arrest and up to his progress noted in the improved grade average in the request for appointment of counsel.

The merits of petitioner's claim present a Federal question that is properly before this court. California has a policy of people whom cannot read with deliberate indifference. In Sum in the process of servings a 25 year sentence the court promised

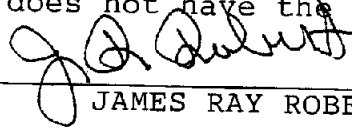
(1)



1 petitioner he would only serve 20 years before he was able to  
2 apply for parole. The law was changed while the term was being  
3 served and respondents failed to inform anyone of the change  
4 in the law and sent out written notices to be posted in the prison  
5 library which only people whom could read would understand.

6  
7 DECLARATION BY JAMES R. ROBERTS

8 I declare under penalty of perjury that I have read the  
9 respondents Motion to Dismiss to petitioner Hernandez. I fully  
10 explained that I could not file a response for him and there are  
11 no other services available to assist him. Mr. Hernandez has  
12 attempted to obtain counsel from Pro Bono services and been  
declined because he does not have the funds to do so.

13  
14   
15 JAMES RAY ROBERTS

16 Petitioner Hernandez requests in the event that counsel  
17 is not appointed that this court treat this motion as a request  
18 for a (COA) and Notice of Appeal regarding the issue of Appointment  
19 of counsel.

20 I declare under the penalty of perjury that I have served  
21 a copy of this petition on Deputy Attorney General Gregory A.  
22 Ott at 455 Golden Gate Ave. Suite 11000 San Francisco Ca 94102-  
23 7004.

24 Victor Hernandez

25   
26 Petitioner

27 (2)



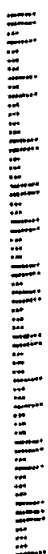
~~Le Ste MRJ~~

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Office of the clerk, U.S. District Court  
Northern District of California  
280 South First Street, Room 2112  
San Jose, California, 95113-0025

09-08-2017



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